

**O'FALLON CITY COUNCIL
MEETING MINUTES
Draft December 7, 2009**

The meeting was called to order at 7:00 p.m. by Mayor Gary Graham who asked Cub Scouts Pack 49 to come forward and lead the Council in "The Pledge of Allegiance to the Flag."

Philip Goodwin, City Clerk, called the roll: Nila Grogan, present; Gene McCoskey, excused; Ed True, present; Dan Polites, present; Rick Reckamp, present; Jerry Mouser, excused; John Drolet, present; David Snyder, present; Michael Bennett, present; Dennis Renner, present; Ned Drolet, present; Steve Engler, present; Jerry Albrecht, present; David Cozad, present. A quorum was declared present.

Mayor Graham asked Cub Scout Pack 49 to stand up. They are in attendance on a citizenship badge.

Motion by J. Albrecht and seconded by E. True to approve the minutes of November 16, 2009. All ayes. Motion carried.

PUBLIC HEARING – None scheduled.

RESIDENTS - Joe Obel came forward and stated that he has been a landlord for 46 years and spoke against the Ordinance on first reading regarding crime prevention. He stated that he is familiar with the program in Fairview Heights. He thinks everyone should be taxed equally, including owner-occupied houses. He stated that most of the police work is done by the management companies. He has the people screened before renting. He answered the Mayor's question by stating he had four units on Lee and Howard and Christone manages them.

Mike McKuen, an O'Fallon resident, asked that the Council send it back to committee. He believes that there are a number of things to strengthen the ordinance and make the community safe. He has 32 years of public management experience. He would like to be part of the process. Mayor Graham said he appreciated his input, and it will go back to committee next Monday at 6:00 p.m.

Mayor Graham said the ordinance had nothing to do with the area by the dairy. The City has never used Section 8 in talking about this ordinance. It is not about raising money; it is about the community ten or fifteen years from now. Regulations need to be in place in order to protect neighborhoods. We are not against renters. We believe that 90% of our landlords do a great job. The number one asset is people's houses, and we want to keep the value of homes. We want to protect the children in those units. R. Reckamp added that it is great protection for the tenants.

Mayor Graham said that they came up with the number based on Fairview Heights. We have met with the major landowners recently. He asked for clarification on the number of units. T. Shekell answered the Mayor that the ordinance does include 1 unit homes. We are particularly interested in assisting the homeowners that are renting their house while they are away from the area.

R. Reckamp added that Mr. McKuen should get a copy of the ordinance before the committee meeting and the Mayor said he could get it on-line, as well.

REPORTS:

Clerk's Report: City Clerk Goodwin read the results of the telephone poll approving St. Jude Crusaders Christmas Tree Lot to open on November 27th. It was approved by an 8 – 5 vote.

Grogan, aye; McCoskey, aye; Polites, aye; Reckamp, aye; Mouser, aye; Bennett, aye; Albrecht, aye; Cozad, aye.

True; no; Drolet, J., no; Snyder, no; Renner, no; Drolet, N., no. Ayes - 8; Nays - 5.

Mayor's Report:

Mayor Graham asked Ken Diel to step forward with his wife, Pat, to receive a proclamation declaring December 8th as Ken Diel Day. Ken said that they were celebrating 30 years in business and that they were hosting the Christmas party tomorrow. He made two important decisions in his life. One was 40 years ago he married his wife, and the second one was when he moved his business to O'Fallon. He appreciates the community.

RESOLUTIONS: Motion by D. Renner and seconded by N. Grogan to approve Item 1 – A Resolution setting forth a revision of certain fee schedules in the Planning and Zoning Department.

M. Bennett asked whether the fees are always done by resolution, and T. Shekell answered that they are. M. Bennett added that the fees should be sensitive to the surrounding areas, and we should ensure that we cover our costs.

S. Engler added that he agrees in principle. He agrees that we should cover our costs, but it is a deterrent with the present economy. He stated that from a tax revenue perspective the timing is not right.

ROLL CALL: Grogan, aye; True; aye; Polites, aye; Reckamp, aye; Drolet, J., aye; Snyder, aye; Bennett, aye; Renner, aye; Drolet, N., aye; Engler, nay; Albrecht, aye; Cozad, aye. Ayes - 11; Nays - 1. Motion carried.

ORDINANCES:

1st Readings –

Motion by D. Renner and seconded by J. Albrecht to consider on 1st reading Item 2, an Ordinance providing for the annual levy for the fiscal year commencing on the first day of May 2009 and ending on the thirtieth day of April 2010.

ROLL CALL: Grogan, aye; True; aye; Polites, aye; Reckamp, aye; Drolet, J., aye; Snyder, aye; Bennett, aye; Renner, aye; Drolet, N., aye; Engler, aye; Albrecht, aye; Cozad, aye. Ayes - 12; Nays - 0. Motion carried.

M. Bennett stated that we once again lowered our tax rate. We could have raised our tax levy, if we wanted to since we do have the option, but it was never the plan to do so. The Mayor added that for the last thirteen years the City has not raised the levy.

Motion by M. Bennett and seconded by R. Reckamp to consider on 1st reading Item 3, An Ordinance establishing and designating the Regency Park Business District and approving the Regency Park Business District Plan.

S. Engler said that he cannot support this. He continued to read a prepared statement. He said we gave a \$125,000 tax rebate for Harley Davidson when they are already located in town. He stated that subsidizing business development has been done to the detriment of our infrastructure. The Regency Park District has not developed. He stated that the City engineer admitted that we do not have a repair program in place. We have spent \$40 million dollars on the Sports Park instead of using the money toward infrastructure. The threat of a lawsuit by IEPA forced us to build the water towers to ensure the viability of our water supply. We have neglected our infrastructure. It is unfortunate that our economy has seen a downturn. We have seen our tax revenue go down 40%, but we have spent 8 million dollars on Phase 2 of the legacy park. He said that we should give no more TIF's, no more added fees, no more money spent on the legacy park.

The Mayor answered that he would like to debate him on every point that he brought up and S. Engler replied that he had a right to state his opinion. The Mayor replied that he does have a right to state his comments, but he should have given the statement to the Council.

The Mayor said he would like him to bring him solutions. The hotel/motel tax cannot be used for infrastructure. The park is being paid for by 60 – 70% of the people who live outside of this city. That is what it is about. He said that the quality of life is important to the city. The park brings value to the homes.

S. Engler replied that the park is beautiful, but we have more important things right now.

Mayor Graham asked that a copy of the statement be part of the record.

J. Drolet said that he does not support this type of tax in which a business can charge a higher amount because of the tax district. He enjoys the Hilton Hotel, but they knew when they built the hotel that they would have to pay the additional 1% tax.

Mayor Graham said it is about the development of the area; it is not about the Hilton Gardens. We spent 2 ½ million dollars on the road and everyone said that we didn't need to do it because it would fill up. It is not full today. This is about jobs – it is the future of O'Fallon. Without the incentives we would not have 6 million dollars in sales tax. He added that if we took the sales tax off of the car dealerships, it would add about \$100 - \$200 of tax to each home. This is about keeping the taxes down. Mayor stated that anyone could bring him solutions.

ROLL CALL: Grogan, aye; True; aye; Polites, aye; Reckamp, aye; Drolet, J., no; Snyder, aye; Bennett, aye; Renner, aye; Drolet, N., aye; Engler, aye; Albrecht, aye; Cozad, aye. Ayes - 11; Nays - 1. Motion carried.

Motion by M. Bennett and seconded by E. True to consider on 1st reading Item 4, An Ordinance adopting a Municipal Retailers' Occupation Business District Service Occupation Tax and Business District Hotel Operator's Occupation Tax.

ROLL CALL: Grogan, aye; True; aye; Polites, aye; Reckamp, aye; Drolet, J., no; Snyder, aye; Bennett, aye; Renner, aye; Drolet, N., aye; Engler, no; Albrecht, aye; Cozad, aye. Ayes - 10; Nays - 2. Motion carried.

Motion by D. Renner and seconded by R. Reckamp to consider on 1st Reading Item 5, An Ordinance adopting and adding a new Chapter 120, "Residential Rental Licenses", to the Code of Ordinances.

N. Drolet said he is for safety, value, and stability of our rental properties. He said he has a problem with the fees, reimbursement, and the checklist. The ordinance states that the owner can appeal, but he will be charged whether he wins or loses.

He said that on paragraph 4, 20.02, the full license fee will be paid at time of application. But in the same paragraph it states that if required fees are not paid within 30 days, after the date such fee is due such fee shall be increased. He said that there should not be a fine. He would like it to be reviewed in Public Safety. He would like public input.

M. Bennett said it is going back to Community Development on Monday. It is a good sound overall program. Regarding the fee, we should build in a yearly review. We should protect the City. This is only covering the cost. He would be leery of waiting until the Public Safety committee meets to address it.

D. Renner thanked the staff for adding the recommendations. He thinks it is long overdue. R. Reckamp said it was researched by Chief Betten and it has already been opened for discussion.

J. Drolet said that he had several issues with it. For example, on page 5, item f, that if there is a non-resident owner, a resident designee would be required. He also inquired about item d which states that if there is a complaint by the tenant, it is free until the license is re-instated. He said it should go back to committee.

N. Drolet said the Community Development committee is limited on time. He is not a member of the committee, so that was the first time that he had an opportunity to examine the ordinance. He thinks it is a good step forward, but it does need revision.

Mayor Graham stated that many things go to the committee and die. We do want public discussion. The point is that it will be reviewed in committee. He thinks the fees are up in the air, and we will review that. This is about protecting the residents. We want to be ahead of the curve.

J. Drolet said the first paragraph addressed increased police calls. Mayor Graham said we could correct the wording. J. Betten replied that the first line is a boilerplate ordinance from a city in Arizona. He said that nationally calls for police from rental housing is 5 – 8 times higher than residential homes.

R. Reckamp said that this is for protection of the neighborhood and the tenants. Mayor Graham added that it also is for the homes around the rentals. We have other communities that do have problems because they did not do anything.

D. Snyder inquired as to whether it could stay in committee until all the problems are addressed. Mayor Graham affirmed the question. D. Renner called for the question. N. Drolet stated that a single until is a small businessperson, and we are asking a lot of small business people to abide a lot of rules and regulations.

Motion by N. Drolet and seconded by S. Engler to move to the Public Safety Committee on 1st reading Item 5, An Ordinance adopting and adding a new Chapter 120, "Residential Rental Licenses", to the Code of Ordinances.

Then D. Snyder asked if it goes to Public Safety do they then own it? Mayor answered in the affirmative. He continued that it is a community issue, but if it goes to Public Safety and would not go back to Community Development. D. Renner said that rental problems are the main complaints. He wants it to stay in

Community Development. M. Bennett added that Community Development meets more often, so it will get more access.

ROLL CALL: Grogan, no; True; no; Polites, no; Reckamp, no; Drolet, J., aye; Snyder, no; Bennett, no; Renner, no; Drolet, N., aye; Engler, aye; Albrecht, no; Cozad, no. Ayes - 3; Nays - 9. Motion failed.

Vote on original motion:

ROLL CALL: Grogan, aye; True; aye; Polites, aye; Reckamp, aye; Drolet, J. no; Snyder, aye; Bennett, aye; Renner, aye; Drolet, N., no; Engler, no; Albrecht, aye; Cozad, aye. Ayes - 9; Nays - 3. Motion carried.

Mayor Graham asked a member of the audience if he would like to address the Council. John Black thanked the Mayor and Council. He said he has three properties on State Street. He has not seen any information on the ordinance. He said the occupancy permit inspections are good. He added that the landowners have not had an opportunity to read about it.

Mayor Graham stated that the ordinance is on the website and that the Community Development Committee will meet on Monday at 6:00 p.m. T. Shekell answered the Mayor that this involves 3500 rental properties.

2nd Readings –

Motion by D. Renner and seconded by N. Grogan to amend on 2nd reading Item 6, an Ordinance amending Ord. 623, Zoning, Frank Scott Lakeside Apartments.

D. Renner said he does not think we should give them a variance for the sidewalks and he liked the parking spaces to stay the same.

Mayor Graham asked for clarification. T. Shekell stated the variance was on twelve. The variance is for 465 instead of 476, so they are eleven spaces short. He said that there are 116 one bedroom apartments. The developer provided them with statistics that show that the percent of one bedroom apartments show 70% of them have only one car. The sidewalk is required on frontal property. They have an escrow of \$11,200 to be held by the City to use at our discretion or place it in the back for pedestrian traffic. It does not make sense to place it on the frontage of Frank Scott Parkway.

R. Reckamp said he does not mind giving up the parking spaces. They do not need a sidewalk for now because the County may widen Frank Scott Parkway, and they would tear up the sidewalk if we put it in.

M. Bennett said he is not a champion of rental housing. He asked whether we have a need for high rent luxury apartments, and what is the evidence that the development will build out? T. Shekell asked Steve Brown to address the issue.

S. Brown said the project they developed at Green Mount Lakes Apartments is still in the 90% range. It is the top performing development in the metro region. They have a \$10,000 market study to see if there is a demand for a more homelike product. He said this is going to feel like a community. Scott AFB is the #3 employer in the St. Louis area and has 15,000 direct employees. It is about location, quality and design. He said he they are putting four million dollars in cash in it. It has a 40 year fixed rate financing. They are using HUD 221 D-4 program, and it is not subsidized. They have sold the Green Mount Lake apartments because their partner was Boston Capital, but the rate on their return was 18%, so it was set up for sale. They sold it after it was stabilized. Riverstone Residential is going to manage the Frank Scott Lake Apartments.

R. Reckamp added that it is not our decision to determine risk. E. True added that it is a business decision, but we do not want to be stuck with a white elephant. The ordinance is our guidelines, but we have to use common sense.

N. Drolet said they have asked for an 18 foot variance in length. They are asking for fewer spaces. His concern is that there is no stipulation on parking of boats, RV's, etc. Those items should be prohibited from parking there and should be in the lease. Also, he stated that in Paragraph 13, it states we should provide access to adjacent property. The access is in Lot 26 and we are going to have a stub, and a sign should state that it can remain a private access for the residents.

D. Renner said that our job is to set standards and regulations. Small businesses would have to conform to the ordinance, so they should.

J. Drolet questioned the developer regarding item 14, the straight through connector road. S. Brown said that it is forthcoming. He also questioned him about the rental fee ordinance. It would cost \$35,000 a year for those two. It would cost the developer \$17,000 for this project. S. Brown said he does not know enough about what is being proposed, but if it makes it safer he is for it because safety is their number one priority.

D. Snyder said that the ordinance states that there must be two spaces per unit on multi-family housing. We should change the ordinance if we want just one. The ordinance requires it to be 10 x 19 foot long. S. Brown said 40% of the original spaces are 10 x 19, and that is how it should be written. T. Shekell replied that 250 spaces will be at 10 x 18 and the balance will be 10 x 19.

M. Bennett made a motion seconded by R. Reckamp to amend the staff recommendation to show 250 units will be at 10 x 18. All ayes except D. Renner who voted no.

R. Reckamp that they had a good compromise.

ROLL CALL: Grogan, aye; True; aye; Polites, aye; Reckamp, aye; Drolet, J., aye; Snyder, aye; Bennett, aye; Renner, no; Drolet, N., aye; Engler, aye; Albrecht, aye; Cozad, aye. Ayes - 11; Nays - 1. Motion carried.

Mayor Graham said that the reason people come to O'Fallon is for safety. Sometimes it may seem like we are difficult, but we just want good quality. We want good quality affordable housing in O'Fallon.

Motion by D. Renner and seconded by J. Albrecht to approve on 2nd reading, an Ordinance amending Ord. 623, Zoning, Crocker Development.

ROLL CALL: Grogan, aye; True; aye; Polites, aye; Reckamp, aye; Drolet, J., aye; Snyder, aye; Bennett, aye; Renner, aye; Drolet, N., aye; Engler, aye; Albrecht, aye; Cozad, aye. Ayes - 12; Nays - 0. Motion carried.

STANDING COMMITTEES –

Community Development: Motion by J. Albrecht and seconded by E. True to approve the request to allow a 12-month extension to Ordinance 3593, the Airport Storage Center Planned Use.

Mayor Graham asked about the extension and T. Shekell answered that it was Harold Bellsheim's development and that this is his first extension on the new project. M. Bennett asked where the storage units are located and T. Shekell stated that they are on the corner of Commerce Drive.

ROLL CALL: Grogan, aye; True; aye; Polites, aye; Reckamp, aye; Drolet, J., aye; Snyder, aye; Bennett, aye; Renner, no; Drolet, N., aye; Engler, aye; Albrecht, aye; Cozad, aye. Ayes - 11; Nays - 1. Motion carried.

The next meeting is scheduled for next Monday at 6:00 p.m.

Public Works: R. Reckamp said the last meeting was November 23rd and the minutes are in the packet and website. They will meet on January 25 at 7:00 p.m. He asked that everyone review the white paper provided by D. Sullivan.

Public Safety: N. Drolet stated that the next meeting will be December 14th at 7:00 p.m. He announced that the Santa Hut is opened. Rick Gorazd and FM Contracting did a great job. Dan Bowman helped with the design. They will be open from 12 – 4:00 p.m. on Saturdays and on Christmas Eve from 12 – 3:00 p.m. D. Renner voiced his concern about not having port-a-potties set up. N. Drolet said if people need to they can get the key for the Depot building. D. Renner suggested that a sign be placed directing the parents.

Finance/Administration: M. Bennett said the next meeting is cancelled. He said a special meeting could be called, if something comes up before the next Council meeting.

Motion by M. Bennett and seconded by J. Albrecht to approve Warrant #197 in the amount of \$765,810.67.

ROLL CALL: Grogan, aye; True; aye; Polites, aye; Reckamp, aye; Drolet, J., aye; Snyder, aye; Bennett, aye; Renner, aye; Drolet, N., aye; Engler, aye; Albrecht, aye; Cozad, aye. Ayes - 12; Nays - 0. Motion carried.

Parks and Environment: D. Renner stated that he did not have a report.

EXECUTIVE SESSION: None scheduled.

ADJOURNMENT:

Motion by J. Albrecht and seconded by N. Grogan to adjourn. All ayes. Motion carried.

The meeting was adjourned at 8:36 p.m.

Submitted by,

Philip A. Goodwin
City Clerk

Minutes taken by
Maryanne Fair, Deputy City Clerk
Proper notice having been duly given